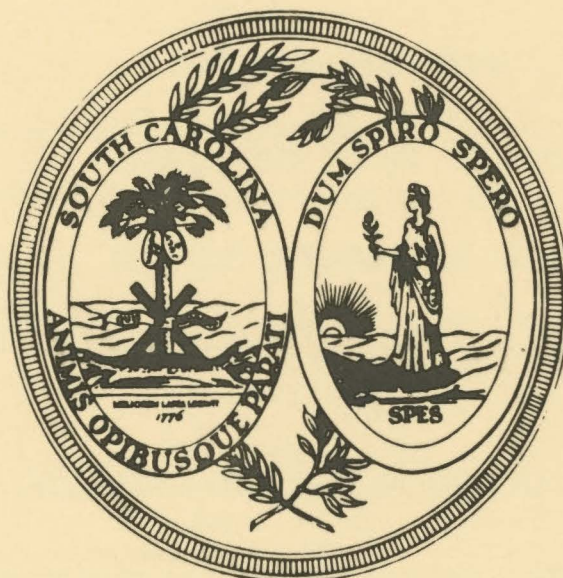


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# South Carolina General Assembly



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## Legislative Audit Council



The State of South Carolina  
General Assembly  
Legislative Audit Council  
Report Summary of the  
Sunset Review of:  
Licensing Board for Contractors  
Residential Home Builders Commission  
Real Estate Commission  
Manufactured Housing Board  
Board of Engineering Examiners  
Board of Certification of  
Environmental Systems Operators  
September 1, 1982

THE STATE OF SOUTH CAROLINA

GENERAL ASSEMBLY

LEGISLATIVE AUDIT COUNCIL

REPORT SUMMARY OF THE

SUNSET REVIEW OF:

LICENSING BOARD FOR CONTRACTORS

RESIDENTIAL HOME BUILDERS COMMISSION

REAL ESTATE COMMISSION

MANUFACTURED HOUSING BOARD

BOARD OF ENGINEERING EXAMINERS

BOARD OF CERTIFICATION OF  
ENVIRONMENTAL SYSTEMS OPERATORS

## REPORT SUMMARY

In July 1978 the General Assembly passed Act 608 which has become known as the "Sunset Act." This Act abolishes specific Boards and Commissions on predetermined dates and provides for a systematic review so that the Legislature might be in a "better position to evaluate the need for their continuation, reorganization or termination." As a part of the review, the Legislative Audit Council examines the programs and functions administered by each board.

This report contains the summary of the reviews of six Boards scheduled to terminate on June 30, 1983:

- Licensing Board for Contractors
- Residential Home Builders Commission
- Real Estate Commission
- Manufactured Housing Board
- Board of Engineering Examiners
- Board of Certification of Environmental Systems Operators

Appended to the summary are each Board's comments on its audit report. The page numbers cited in this summary refer to those pages in the complete report published under separate cover. A copy of the full report can be obtained from the Legislative Audit Council.

In conducting the reviews, the fiscal and management practices of each Board were studied. All policies and procedures promulgated and followed by the Boards and all applicable State regulations were reviewed. Files, memos and records were examined and complaint and examination data analyzed. Board members and interested industry associations were surveyed and interviews were held with the Boards' staffs.

The review of the Boards' regulatory duties, functions, policies and procedures indicates the six Boards fulfill a public need through the regulation of their industries. The Audit Council recommends that the authority of each of these Boards be continued.

### Licensing Board for Contractors

- The Licensing Board for Contractors has the responsibility for regulating general and mechanical contractors and bidders. The Audit Council recommends the continuation of this board since it provides protection to the public. South Carolina does not have a uniform building code, and only 15 of the 46 counties have enacted local codes. Licensed general and mechanical contractors can be held accountable for meeting the Southern Building Code and the National Electrical and Plumbing Codes since this is the criteria under which they are licensed (see p. 2).
  
- Although Section 40-59-70 has required licensure by the Residential Home Builders Commission since 1974, 99 builders whose work is restricted to residential homes continue to be licensed by the Licensing Board for Contractors. The Contractors Board has continued to issue this restricted license, citing Section 40-59-140 of the RHBC law, which states that the provisions of the home builders law shall not apply to any person licensed as a general contractor.

Both the Contractors Licensing Board and the Residential Home Builders Commission would prefer that these individuals be governed by the licensing requirements of the RHBC. The General Assembly should consider amending Section 40-50-140 so that home builders with the restricted general contractors license must be licensed by the Residential Home Builders Commission (see p. 2).

- A review of Board administration indicates some areas in which efficiency and effectiveness could be improved. It is necessary that staff assume some of the responsibilities from the Executive Director. The Board should consider developing written policies and procedures on administration, so that all staff have guidelines to be followed in conducting agency business (see p. 4). The Board should consider accepting a proposal from the Division of Motor Vehicle Management that would reduce travel costs and provide the necessary documentation for travel costs (see p. 4). A review of personnel records indicates that the Board should advertise agency positions and take measures to ensure that the general public has access to positions. The Board needs to reconsider the practice of hiring relatives of employees; currently, three of the seven employees are related (see p. 5).
  
- An individual may be engaged solely in contracting and enter into many contracts, but as long as no one contract exceeds the specified dollar amount, licensure is not required. A general contractor is not required to be licensed unless the cost of the undertaking exceeds \$30,000 and a mechanical contractor need not be licensed unless the cost of the contract exceeds \$10,000 (Section 40-11-10). There are several states that require an individual who enters into many contracts to also be licensed. With Section 40-11-10 amended to include both a contract amount and a per-annum aggregate amount when defining licensure, more adequate protection would be provided to the consumer (see p. 7).

- For a mechanical or general contracting company to be licensed, at least one managing employee must have passed the appropriate exam. The Board's rules and regulations need to more specifically define the individual who can qualify a company for licensure by taking the examination. Further, steps should be taken to verify that the individual holds a responsible position within the company (see p. 8).
- The Board should revise its examination and testing procedures so that the validity and reliability of the testing process will be assured. The Board needs a policy on revising and updating examinations. There should be a review of the pass/fail ratio of questions to determine if each is valid. Also the pass/fail ratio of the individual exams should be compiled as a test of the level of difficulty of the different versions of each exam. Specific time limits need to be set for taking the exam. Board Rule 29-4 should be amended to end the practice of allowing two employees to take an exam together to qualify a company for licensure (see p. 11).
- The Board should have a comprehensive system for recording and handling complaints and disciplinary actions. Steps need to be taken to ensure complete complaint records and written guidelines for investigations. Fifty-seven percent of the 116 complaints logged for FY 78-79 to FY 81-82 are missing from the files and 11 complaints located in the files were not noted in the log. The complaint files should be complete, arranged in a logical order, and have documentation of resolution.

Board minutes in 1981 noted two construction companies convicted of bid-rigging and suspended by the South Carolina Highway Department. The Audit Council obtained a list of 18 contractors barred from bidding by the Highway Department because of convictions for bid rigging. All but four continue to be licensed by the Board.

Section 40-11-150 requires the Contractors Board to issue a license, as a matter of right, to contractors certified by the Highway Department. Reporting procedures need to be instituted to ensure that contractors whose certifications have been revoked by the Highway Department do not continue to receive a license from the Contractors Board (see p. 13).

- Consideration should be given to developing policies and procedures for conducting investigations. There should be building standards established as the criteria to be used when making investigations (see p. 15).
- Currently, State law provides for a Board membership consisting of five members from various fields of the contracting industry (Section 40-11-20). The primary functions of the Board, licensing and public protection, could be more effectively accomplished by adding informed public members (see p. 16).

#### Residential Home Builders Commission

- The Residential Home Builders Commission (RHBC) has effectively carried out its responsibility of examining and licensing residential

home builders. The authority granted the Board by Act 897 of 1974 should be renewed (see p. 30).

- Ninety-nine builders whose work is restricted to residential homes continue to be licensed by the Licensing Board for Contractors although Section 40-59-70, has required licensure by the Residential Home Builders Commission since 1974. The Contractors Board has continued to issue the restricted license, citing Section 40-59-140 which states the provisions of the RHBC law shall not apply to any person licensed as a general contractor. Both the Contractors Licensing Board and the Residential Home Builders Commission would prefer that these individuals be governed by the licensing requirements of the RHBC. The General Assembly should consider amending Section 40-50-140 so that home builders with the restricted general contractors license must be licensed by the Residential Home Builders Commission (see p. 30).
  
- Whether an individual is required to be licensed as a residential home builder is based on the amount of a single contract. An individual may be engaged solely in residential home building and enter into many contracts, but until one contract exceeds \$10,000, licensure is not required. If Section 40-59-10 were amended so that both a contract amount and a per-annum aggregate amount defines licensure, more adequate protection could be provided the consumer (see p. 33).



- The Commission should consider maintaining a manual containing Board policies and procedural guidelines. Only a few Commission decisions affecting licensure, examinations, complaint processing and investigation have been converted into written statements of policy. Although a review of these areas revealed no major problems, a manual would ensure consistency in decision making (see p. 32).
- Complaints and investigations are handled in an effective manner. The Commission acts on complaints concerning major structural defects and other problems with home construction covered by the builder's warranty. Most of the complaints come from the public and are satisfied by Commission investigators without the need of a Commission hearing (see p. 35).

#### Real Estate Commission

- The authority of the Real Estate Commission to regulate real estate brokers, counselors, salesmen, appraisers, and time-sharing plans should be continued. The Commission's regulation of the industry has provided needed protection to the public (see p. 47).
- The Commission and the Commissioner should consider maintaining a policies and procedures manual. Written policy is especially needed in the areas of inspections, complaints, and disciplinary action to ensure that adequate records are kept and the public is protected (see p. 48).

- The Commission renews licenses on an annual basis with all renewals due on June 30 of each year (Section 40-57-160). This means the Commission must renew 15,150 licenses in less than two months. Spacing renewals throughout the year would allow for more efficient use of staff resources (see p. 53).
- Continuing education is not required in South Carolina as a prerequisite for license renewal. However, the South Carolina Association of Realtors and seven of the eight Board members who responded to an Audit Council survey were in favor of making it a required prerequisite. Continuing education is one way to assure that realtors are able to adequately serve and protect the public in a rapidly changing industry (see p. 53).
- The Real Estate Commissioner should review the current method of recording complaints and disciplinary actions. The licensure, complaint, and disciplinary files need to be cross-referenced. Currently, complaints are retained in the disciplinary file according to the year in which they were received and by the name of the broker-in-charge. The complaints filed against a particular licensee should be compiled and noted in the individual licensure files (see p. 54).
- Periodic review of real estate offices for legal compliance would be more effective if other methods of inspection and use of staff were utilized. The agency makes surprise inspections. Since prior notice is not given, investigators often arrive at a real estate

office to find that the office is closed or that financial records are unavailable due to the absence of the broker-in-charge or the bookkeeper. A review of the areas of compliance to be examined during a visit indicates that prior notification would not significantly reduce the effectiveness of the inspection. By scheduling inspections with brokers, even a day or two in advance, a greater percentage of offices could be inspected (see p. 55).

- The Commissioner is given the authority to make complaints, investigate them, hold hearings, and discipline licensees (Section 40-57-170). The Commission becomes involved in the complaint and disciplinary process only when a decision of the Commissioner is appealed. In a September 1980 opinion, the Attorney General's Office stated that because the Commission may be asked to sit in appellate review, any prior knowledge of a specific complaint would be inappropriate. As a result of this opinion, routine information from the agency staff about complaints, inspections, investigations and disciplinary action is very general. Reports need to be developed which provide the Commission with adequate information while simultaneously protecting potential appellants (see p. 56).

#### Manufactured Housing Board

- The Manufactured Housing Board is performing its functions in an effective and efficient manner. The Audit Council recommends that the Board be reconstituted to continue its regulation of manufactured housing (see p. 70).

- The public member of the Manufactured Housing Board is chairman of the Manufactured Housing Institute, a registered lobby group that promotes the manufactured housing industry. An Attorney General's opinion obtained in June 1982 concluded:

"...an officer in a manufactured housing industry organization or association would not be qualified to be appointed to or to serve on the South Carolina Manufactured Housing Board as the member from the general public."

The public member should consider resigning so a representative of the general public can be appointed (see p. 71).

- Review of the licensing procedure revealed that applications for licensing or renewal are handled efficiently and expeditiously (see p. 72). The complaint handling system performs effectively (see p. 74). The Board has under-reported the number of resolved complaints, therefore, complaint handling has been more successful than indicated in Board reports (see p. 76).

#### Board of Engineering Examiners

- After reviewing the laws and administration of the Board of Engineering Examiners, the Audit Council concludes that the regulation of engineers and land surveyors should continue (see p. 92).
- Although South Carolina law states it is unlawful for any person to practice or offer to practice engineering unless licensed by the Board, public utility companies are exempt from this law (Section 40-21-30 and 410). Other companies, State agencies and local governments are required to employ licensed engineers to perform any engineering services, and only public utilities are exempt.

In order for the public to be reasonably assured that the person in charge of each utility's engineering work has the necessary knowledge and skills, the law should not exempt utilities from Board regulation. The portion of Section 40-21-410 which exempts public service companies and utilities from regulation by the Board of Engineering Examiners should be deleted (see p. 92).

- The Board of Engineering Examiners is required by law to be composed of five engineers and one land surveyor. When canvassed by the Audit Council, four out of five Board members expressed the need for an additional land surveyor member to share the responsibility of providing technical expertise to the Board. The Board has also stated "...the addition of the public member could serve a very useful purpose in its operation..."

The Council recommends amending Section 40-21-40 to add a second land surveyor and to include a public member on the Board (see p. 93).

- The Board should consider maintaining a manual containing Board policies and procedural guidelines. For example, there needs to be a written policy on the development and administration of Part IV of the land surveyor exam (see p. 102). In this way, consistency in decision making can be better ensured (see p. 94).
- Registrants may practice their profession for a year without renewing their licenses before the Board takes disciplinary action. The

Board should consider reducing the amount of time in which registrants can renew. The adoption of intermediate sanctions, such as penalty fees, might discourage registrants from renewing late. For those registrants who choose not to practice in South Carolina for a length of time, the Board could require notification of intent by the renewal date (see p. 98).

- The Board does not have authority to fine licensees who disobey Board regulations, or violate the rules of professional conduct or minimum standards for land surveying. The Board only has the power to issue a reprimand or to suspend or revoke a license (Section 40-21-340). Taking away an individual's license deprives him of a livelihood, and reprimands can be an inadequate deterrent; therefore, the Board needs an intermediate sanction such as fines to better enforce their laws (see p. 104).

#### Board of Certification for Environmental Systems Operators

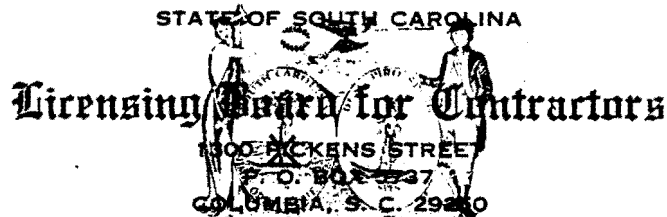
- The Board of Certification of Environmental Systems Operators fulfills a public need in regulating water and wastewater operators, percolation test technicians and well drillers. The continuation of this Board, therefore, is recommended (see p. 118).
- For each of the 13 Board members, the law carefully spells out who is to make recommendations and the number to be recommended. Currently, two of the four Board members recommended for appointment by the South Carolina Water and Pollution Control Association must be active members of this private organization. Section

40-23-20 should be amended to remove these membership requirements and to place public members on the Board (see p. 118).

- The types of certificates and levels of competency certified by the Board depend on the classifications DHEC establishes for all public water and wastewater treatment facilities (Section 40-23-150). DHEC classifications are based on the complexity of plant operations and the skills needed to operate each facility (Sections 44-55-40 and 48-1-110). A review of licensure procedures indicates the Board is acting in an effective manner (see p. 121).
- The Board and DHEC share responsibility for enforcing certification requirements and in handling complaints. The Board certifies the qualifications and appropriate grades of operators and requires that certified operators use reasonable care, judgment and knowledge in the performance of their duties. DHEC investigates complaints concerning the actual operation of water and wastewater treatment plants, and requires that plants be operated by certified operators. Thus, the Board is responsible for investigating complaints, referred by DHEC, involving the failure of operators to use reasonable care, judgment and knowledge in the operation of treatment plants. The Audit Council found complaints were expeditiously handled and complaint files were properly organized and documented (see p. 126).

## APPENDICES





August 26, 1982

Mr. George L. Schoeder, Director  
LEGISLATIVE AUDIT COUNCIL  
620 Bankers Trust Tower  
Columbia, South Carolina 29201

Dear Sir:

After having reviewed the audit report drafted by the Legislative Audit Council, the South Carolina Licensing Board for Contractors would like to respond to your report and recommendations.

The Licensing Board has previously expressed their approval for the following changes recommended by the audit report:

To amend Section 40-59-20 of the Residential Home Builders Act to require that all residential builders be licensed by that Commission, regardless of whether they are licensed with this Board.

The Board is also on record for adding two (2) public members to the current five (5) member Board.

The members also agree with the council's report that the Director is burdened with too many duties and is, in fact, under paid for his responsibilities.

For fiscal year 1982-83, the Board requested a bookkeeper to assume the responsibilities of fee receipts, journal entries, deposits and other duties now handled by the director, and a salary increase to place him on a comparable level with other similar agency heads.

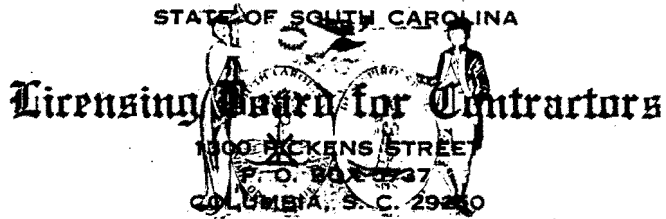
These requests were approved by the House Ways and Means Committee, but were later deleted during the budget process in the Legislature. We intend to request these funds again for fiscal year 1983-84.

There is also agreement that the sections of the rules and regulations dealing with the minimum amount of an undertaking that requires a license be changed to coincide with the statute itself. This will be requested at the next Legislative session.

The Board also intends to amend the rules and regulations to make it mandatory for an applicant to take the written examination classification alone, rather than jointly, as is now allowed.

We will also review our examinations and set specific time limits on each, as recommended.

APPENDIX 1 (CONTINUED)



August 26, 1982

Mr. George L. Schroeder, Director  
LEGISLATIVE AUDIT COUNCIL

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The recommendation that the Department of Highways and Public Transportation notify this office of all disbarments by that department is already being done.

However, we have been advised by the office of the Attorney General that it would not be in the best interest of the State to move against all the currently disbarred contractors, or take any action against those that have made restitution and have been reinstated.

Negotiations are still underway with many of those currently disbarred, and we have been advised that should this Board become involved, it could jeopardize the State obtaining restitution from some of those contractors.

The Board intends to work closely with the Department of Highways and Public Transportation and the Attorney General and proceed as advised to bring this problem to a favorable solution to both this Board and the State of South Carolina.

The Board feels that the following recommended changes are unnecessary and believe the current laws or rules and regulations concerning these matters are sufficient to deal with these issues for the present time:

The recommendation that the name of the qualifying party for a company or corporation be listed on the license would, in some cases, be physically impossible to carry out. Some corporations have ten or more persons qualified for different classifications of licenses they hold.

The Board holds the owner or president of the company or corporation responsible for any violations or complaints against the licensee, regardless of who stood the written examination to qualify the firm for a license.

All examinees are required to show positive identification and sign a representative form before sitting for a written examination. These forms are retained and should a renewal fail to list the managing employee who participated in the examination, a verification (signed by the representative(s) and the owner or president of the firm) stating that the qualified party is still employed by the licensee.

The recommendation to change the current thirty (30) day limitation for notifying the Board when a qualifying representative leaves the employ of the licensee, to fifteen (15) days is considered unnecessary and could place an undue hardship on a licensed contractor, who would have to appear for examination within 15 days to keep his license in force.

STATE OF SOUTH CAROLINA

## Licensing Board for Contractors

1300 PICKENS STREET  
P.O. BOX 2237  
COLUMBIA, S.C. 29210

August 26, 1982

Mr. George L. Schroeder, Director  
LEGISLATIVE AUDIT COUNCIL

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We are also opposed to the section recommending that a contractor must be licensed, not only if one contract exceeds the current minimum requirement, but if all aggregate contracts within a year exceed the minimum now required. We feel this would be very difficult to enforce and administer, and would require twice the number of staff members we now employ and additional office space. We estimate the number of licensees would double, particularly mechanical contractors.

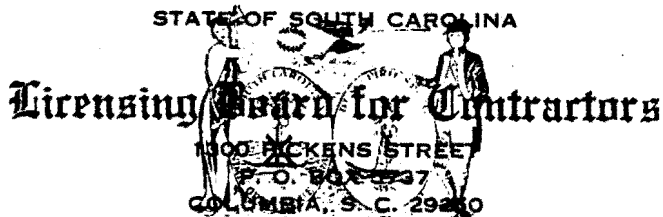
The Board would like to continue this agency's policy for using private automobiles and being reimbursed for official mileage, rather than using state-owned automobiles. There are times when our investigators can operate more effectively in an automobile that is not readily identifiable. For fiscal year 1981-82, this agency's savings from using State automobiles would have been \$1,284.09 (42,803 official miles x .03) which is less than 1% of our 1981-82 budget of \$181,119.00. This savings would be even less if the state automobiles could not be driven home by employees, and parking would have to be made available at the Board's office. The issue of employees driving State automobiles to and from work is still a controversial subject we would rather avoid if possible.

The audit also states that there is no documentation for trips by staff investigators. Each morning the director reviews the previous day's activities with the investigator. This includes the review of copies of building permits, contracts and other written evidence pertaining to a particular investigation. If an investigator attended a bid opening, a bid tabulation sheet is retained and placed in a permanent file verifying his activities for that day. We will begin requiring that investigators keep a trip log, listing destination, purpose of trip and specific location. Mileage, departure and arrival times are noted on travel vouchers which we already must maintain.

The remaining findings and recommendations by the Audit Council are recognized by the Board as needing to be changed or improved and every effort will be made to accomplish this. Many of these changes will take time, and in some instances, more funding and personell. Our comments on these recommendations are as follows:

**POLICY AND PRODECURES MANUAL:** The lack of such a manual is mentioned throughout the report and we intend to begin assembling such a manual as soon as possible.

**EXAMINATIONS:** The Board has long recognized some of the problems associated with our examination and exam process. Some problems can and will be corrected immediately, and some will require more time and/or funds to accomplish.



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Mr. George L. Schroeder, Director  
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We intend to clarify the term "managing employee" and require a notarized statement from each applicant for examination, outlining his position with the firm he is going to qualify for license. This statement will be used to determine if the individual qualifies as a managing employee and will be retained in the applicant's file.

The examination that is mentioned in the report as sixteen (16) years old is currently being up-dated and revised and should be in use at our October examination. Even though our contract is with an individual, this professional has consulted at least two (2) other states and other professions in this field to produce a quality examination. This up-dating process is expensive, and while most Boards have only one classification of examination, this Board has fifteen (15) different classifications of examination from one to six different versions of each. A tremendous amount of money would be required to up-date each exam annually. We intend to review all examinations annually, and if funds are available, up-date those examinations which are found to be most in need of revising.

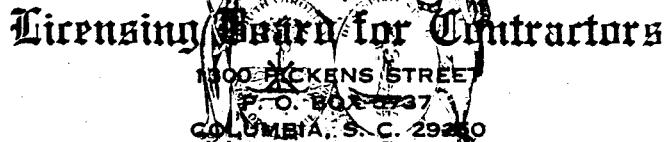
The Board feels that the statement by the State Engineer criticizing the building examination for not having questions pertaining to barrier free designs and energy conservation, as required by law, is not valid. It is the responsibility of the architect or engineer to conform to these requirements when he draws-up the plans and specifications. The builder must execute as specified by the plans and specifications.

Special examinations will continue to be given in our office, but only if a hardship exist, and with Board approval. We give examinations quarterly at the Rutledge Building conference room, but have outgrown this facility. Beginning in January we will expand the examination process to two (2) weeks instead of one(1), as is now the case.

**HIRING PRACTICES:** None of the three (3) related employees mentioned in the report are related to the current director, the person who will assume the directorship in October, or any Board member, past or present. All future job openings will be publicly advertised and applicants carefully screened to assure that the most qualified are hired.

**COMPLAINTS AND VIOLATIONS:** It appears the major problems concerning complaints and violations are the lack of standardized forms, systematic approaches to handling these matters and improper filing practices. We do not believe these problems have kept this agency from satisfying the needs of the public who have filed these complaints, but simply is a lack of documentation and proper filing practices in some cases. We intend to adopt proper procedures for investigating

STATE OF SOUTH CAROLINA



August 26, 1982

Mr. George L. Schroeder, Director  
LEGISLATIVE AUDIT COUNCIL


Page 5.

violations and complaints, establish a uniform system for filing these irregularities and also a procedure for checking for unlicensed contractors. A standardized form will be adopted to simplify this procedure.

This Board will begin adopting the recommendations of the Audit Council as time, money and personnel permits. Many of the recommendations have already been adopted and are being implemented by the office staff.

In conclusion, we would like to state that we feel that this Board has been and continues to be a very vital State function for the protection of the people of this State in addition to being an excellent fund raiser. We feel that we have done an outstanding job with the operating funds and personnel that are allowed us. The bulk of the negative comments we have received boils down to a shortage of personnel and funds. This can only be alleviated by an adequate budget to permit us to operate as both the State and the Board desire.

Sincerely yours,

  
H. B. Ross  
Executive Director

HBR/gb

CC: Mr. J. E. Waldrep, Chairman of the Board  
Mr. W. E. Copeland, Vice-Chairman of the Board  
Mr. Harry R. Kent, Member of the Board  
Mr. W. Loring Lee, III, Member of the Board  
Mr. M. E. Walker, Member of the Board



OFFICE OF THE DIRECTOR

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VICE-CHAIRMAN  
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## SOUTH CAROLINA RESIDENTIAL HOME BUILDERS COMMISSION

2221 DEVINE STREET SUITE 312  
COLUMBIA, SOUTH CAROLINA 29205  
TELEPHONE 758-7091

July 20, 1982

Mr. George L. Schröder, Director  
Legislative Audit Council  
620 Bankers Trust Towers  
Columbia, S. C. 29201

Dear Mr. Schroder:

The Commissioners, staff, and I appreciate the courtesy the Audit Council extended to our agency during their indepth audit, however, I would like to comment on a few of the suggestions contained in the report, and make a few suggestions that the Commissioners feel need to be added.

1. Procedure Manual - We use the State Personnel Manual for all personnel matters, and follow it to the letter. We agree that a comprehensive procedure manual should be prepared on processing applications for examinations, preparation of examinations, and the complaints procedure. We have a set of procedures on how the complaints are handled, however, a comprehensive manual of the overall operations of the Commission will be prepared as recommended in the audit.

2. 99 Contractors improperly licensed with the Contractors Licensing Board - The Commission agrees with the audit regarding the 99 licensees that are licensed by the Contractors Licensing Board that are restricted to residential home building only. They should be required to be licensed by the Residential Home Builders Commission. This is also the feeling of the Contractors Licensing Board.

3. Section 40-59-140 - The Commission agrees that this Section should be deleted, and any person constructing residences, repairs, improvements, or re improvements to residences should be licensed with the S. C. Residential Home Builders Commission even if they are also licensed by the Contractors Licensing Board.

4. Lowering the \$10,000 limit The Commission agrees with the Audit Council to recommend a lowering of the \$10,000 limitation now in effect before a person must obtain a license to construct or

APPENDIX 2 (CONTINUED)

Page 2  
July 20, 1982  
Mr. George L. Schroder

supervise construction of any building or structure which is not over three floors in height and does not have over sixteen units in the apartment complex, or repair or improve same. The residential home builder (prime contractor) today is primarily a manager who subs out work to various tradesmen. This work includes laying out the house, clearing the site, digging and pouring the foundation, brickwork, framing, heating and air conditioning, electrical, plumbing, insulation, roofing, sheetrock, trim, carpentry, painting, floor covering, carpet, ceramic tile, etc. All these tradesmen should be licensed, and have the knowledge and expertise in their trades. At the present time any of these tradesmen doing work where the cost of a single job is under \$10,000 are not required to be licensed, and here is where most of our complaints arise. Until these tradesmen are required to be licensed, the public's health, safety and welfare are going to be subject to unscrupulous and unqualified persons purporting to have the capacity, knowledge, and qualifications of a residential home improvement contractor or contractor in the other various trades.

The Commission works very closely with the Department of Consumer Affairs. When they receive complaints on builders licensed with this agency they are referred to this office, and when we receive complaints on an unlicensed builder where the cost is under \$10,000 we refer them to the Department of Consumer Affairs. However, the Department of Consumer Affairs does not have any authority, such as the revocation of a license, thereby leaving them without very much authority for the protection of the general public.

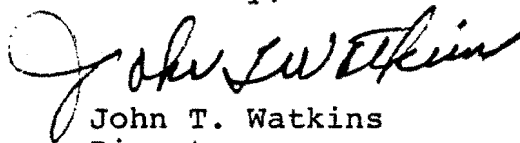
The Residential Home Builders Commission is very proud of the part they have had in the health, safety, and welfare of the public.

I am very proud of the Commission members, and feel they are the most dedicated, sincere, and expertise members of any state agency.

The staff, what can I say, except that I know it is one of the most dedicated and professional in state government.

Again, I would like to thank the Legislative Audit Council for their fine report, and I can assure the people of South Carolina that this Commission will continue to be one of the best agencies in the State, and will work for the health, safety, and welfare of the public.

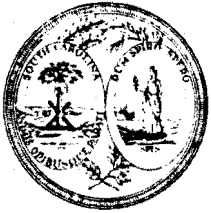
Sincerely,



John T. Watkins  
Director

ON BEHALF OF THE COMMISSION

JTW/bw



APPENDIX 3

# South Carolina Real Estate Commission

P. O. BOX 5917

2221 DEVINE ST. - SUITE 530  
COLUMBIA, S.C. 29205 29250  
TELEPHONE (803) 758-3981

August 23, 1982

**MEMBERS**

W. CALVIN WHITE, Chairman  
MERYL D. BULWINKLE, Vice-Chairman  
FRANK P. HAMMOND  
ROBERT R. HEOS  
HENRY L. JOLLY  
CLYDE E. MORGAN  
ROY PEAVEY  
JOHN S. ROBINSON  
WYMAN W. TROTTI

FRED B. BEALL  
Commissioner  
RYAN JOHNSON  
Deputy Commissioner  
H.T. OWINGS, JR.  
Field Supervisor

Mr. George Schroeder, Chairman  
Legislative Audit Council  
Suite 620  
Bankers Trust Tower  
Columbia, SC 29201

Re: South Carolina Real Estate Commission Sunset Audit

Dear Mr. Schroeder:

At the request of your Ms. Still, I visited your office for a second time to review your amended evaluation of this Commission. Your change in position must have occurred following my letter, comments and frank answers concerning the eight Sunset Issues originally developed by your staff. I would reply as follows to your amended report which was brought to my attention on August 19, 1982:

I. Travel expenses of the Real Estate Commission Board Members seems to be an issue. The Real Estate Commission was created in 1956 for the purpose of administering the Real Estate License Law, issuing rules and making policy decisions to regulate the real estate industry within South Carolina. Every state in the union has a commission or board which is vested with duties and responsibilities similar to those of this agency. The National Association of Real Estate License Law Officials is an international organization of such boards and commissions. The Real Estate Departments of all 50 States send representatives to the various NARELLO Conferences which are held periodically for the purpose of exchanging ideas and discussing regulatory problems which exist throughout the country. Each member of this Commission is expected to make decisions and vote on policy considerations which affect the real estate industry in this State. A solid knowledge of the issues involved is essential and NARELLO furnishes a broad perspective from which intelligent, informed decisions can be made. Should individual members be denied the opportunity to learn from the problems and solutions of other similar commissions throughout



### APPENDIX 3 (CONTINUED)

Mr. George Schroeder, Chairman

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the country, they would be placed in the position of making decisions without access to the broadest source of information available. Accordingly, we believe that the benefits obtained by attending NARELLO Conferences warrant the expenditure of funds necessary to send all Commission Members to these meetings.

II. Your original and amended report on the activities of this Commission suggested that a Policies and Procedures Manual is needed. Such a Manual is being prepared for the Real Estate Commission and we hope to have it completed by the time we all meet with State Reorganization Commission.

III. Proposed continuing education requirements for the real estate industry failed to pass the General Assembly during the past two Legislative Sessions but it is anticipated that such a proposal will be introduced again in 1983. The Bill is now being drafted by the South Carolina Association of Realtors.

IV. The license renewal of brokers and salesmen take place annually during May and June. Such licenses expire on June 30th each year. Since this Commission installed a computer capable of storing an updating license program, the back-log of license renewals has been greatly reduced. By using computer print-outs which are sent to each broker-in-charge in the State, we are able to control the movement of licensees from one office to another in an efficient manner. The Commission has considered staggering license renewals throughout the year but, as yet, we have not taken a final position on this matter.

V. The criticism of our complaint and disciplinary action procedure of July 1, 1982 has been addressed and corrected. We now cross-index each complaint and insert a copy of the complaint within the personal file of the licensee involved.

VI. Your Amended Report once again addressed the issue of informing Commission Members about complaints received from their District. As you know, the Attorney General issued an opinion on September 22, 1980 stating that individual Commission Members should not be notified of complaints arising from their districts since this might well compromise basic due process rights of the licensee being investigated. An examination of the South Carolina Real Estate License Law sets forth the duties of the Real Estate Commission Members and these are to establish policy, issue general rules and regulations and advise the Real Estate Commissioner in carrying out the provisions of this Chapter. (Section 40-57-50, Code of Laws of South Carolina, 1976.) It is not the province of the Commission Members to report or become involved with the Investigative or Disciplinary Process. This is the function of the Commissioner and his staff. If the Board Members are dissatisfied with the conduct of the Commissioner

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or the manner in which the Commissioner directs his staff, the Board Members are empowered to council with the Commissioner and, if necessary, to replace the Commissioner at any given time, with or without cause. We feel that the functions of the Commissioner and the Board Members were intended to be separate and we intend to follow the recommendations outlined by the opinion of the Attorney General.

VII. Your criticism of the Real Estate Commission hearing procedure as addressed by Section 40-57-180, CODE, is well taken. This office has sponsored Legislation during the passed two Legislative Sessions which would conform this Commission's Hearing Procedure to the South Carolina Administrative Procedures Act. We feel that this legislation is vital to the meaningful and efficient prosecution of License Law violations and we solicit your assistance in getting the General Assembly to recognize this need.

VIII. Your recommendation that field representatives set their office visits by appointment rather than unannounced inspections cannot be seriously considered. A distinction must be made between an investigation into a complaint and a routine office inspection. In conducting an investigation, appointments will be made as specific information from specific individuals is needed. In conducting routine office inspections in a given locality, however, the goal is to visit as many offices as practical in a given day with minimal disruption of the business routine of those offices checked. Time spent in an office may vary from 30 minutes to 4 or 5 hours, depending upon the difficulties encountered in each visit. In view of the need for such flexibility on the part of the field representative, setting a hard and fast schedule of visits would not be feasible.

In conclusion, I assume my letter of July 8, 1982 will remain on file with the original Audit. I would ask that this letter be filed as the response of this Agency to your Amended Audit. I thank you for the opportunity to reply in this fashion.

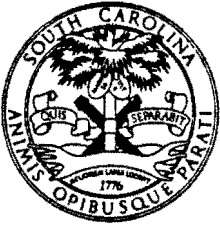
Very truly yours,



Fred B. Beall  
Commissioner

## SOUTH CAROLINA MANUFACTURED HOUSING BOARD

310 GERVAIS STREET, COLUMBIA, S.C. 29201 • (803) 758-5378



June 28, 1982

NORMAN F. PULLIAM  
CHAIRMANJOHN W. HINKS  
VICE CHAIRMANRALPH L. CAMP, JR.  
SECRETARY

AARON A. BROWN

TONY O'NEAL DAVIS

CARLTON SIMONS

RAYMOND J. MILLER

Mr. George L. Schroeder, Director  
Legislative Audit Council  
620 Bankers Trust Tower  
Columbia, S.C. 29201

Dear Mr. Schroeder:

I am writing this letter as Chairman of the South Carolina Manufactured Housing Board after communication with Rick A. Howell, Director, Building Codes and Regulatory Services, Manufactured Housing Section, in regard to the Legislative Audit Council report of June 23, 1982.

The Council evidently made great play concerning the fact that Mr. John W. Hinks is the President of the Manufacturedhousing Institute of S.C., which is not a position of profit, but is one of community service, and is a position presently filled and has always been filled by a member of the general public.

Please be advised that Mr. John W. Hinks was appointed to the Board by Governor James B. Edwards in 1975, by Governor Richard W. Riley in 1981, as the member from the "general public" in accordance with Section 31-17-90, South Carolina Code of Laws, 1976, as amended. Mr. Hinks works for Standard Federal Savings and Loan in Columbia, S.C., and is not employed by the State of South Carolina, nor any of its political subdivisions. It is respectfully submitted that Mr. Hinks fits the role of the member from the "general public" getting no benefits from the public sector, and that the member from the "general public" could be a banker, an attorney, etc., or could represent any number of professions or jobs.

The Legislative Audit Council at its debriefing on June 23, 1982, I am told, mentioned on several occasions that Mr. Hinks was the Board member representing the "consumer". The Manufactured Housing Board does not have a position designated as such by statute; however, Mr. Hinks certainly is a consumer in that he owns his own home, automobile, household furnishings, appliances, and other consumer items.

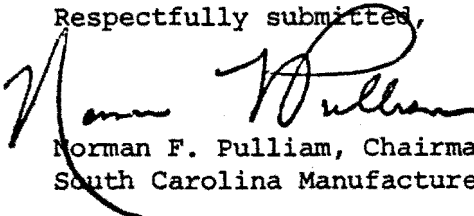
Mr. Hinks has historically shown his dedication, sense of fairness, and initiative toward accomplishment of the goals and objectives of the Manufactured Housing Board. In my opinion, as Chairman of the Board, the Board in general would take issue with the Legislative Audit Council in regard to the eligibility of Mr. John Hinks and I respectfully request that any question concerning Mr. Hinks' fulfillment of his duties and responsibilities on the South Carolina Manufactured Housing Board be eliminated and stricken from the report.

APPENDIX 4 (CONTINUED)

Mr. George L. Schroeder  
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If any additional response is needed, orally or in writing, please advise me accordingly.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Norman F. Pulliam". The signature is fluid and cursive, with the first name "Norman" and last name "Pulliam" clearly distinguishable.

Norman F. Pulliam, Chairman  
South Carolina Manufactured Housing Board

NFP:pf

cc: Rick A. Howell  
John H. Lafitte, Jr.

# South Carolina State Board of Engineering Examiners

FERRELL J. PROSSER, CHAIRMAN  
FLORENCE  
L. LIN MCNAIR, VICE-CHAIRMAN  
COLUMBIA  
B.L. BAKER, SECRETARY  
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CHARLESTON  
G.G. THOMAS  
ROCK HILL

MRS. MARY M. LAW, AGENCY DIRECTOR  
SUITE 422, 2221 DEVINE STREET  
COLUMBIA, S.C. 29205  
(803) 756-2855

July 13, 1982

Mr. George L. Schroeder, Director  
Legislative Audit Council  
620 Bankers Trust Tower  
Columbia, South Carolina 29201

Dear Mr. Schroeder:

The members of this Board are indeed appreciative of the opportunity afforded our representatives on July 1, 1982 to review the draft of your audit report on our operations. We would like to commend your staff members who were involved in this audit for their thoroughness and to express our thanks for the worthwhile recommendations which were made. We feel the report is eminently fair in its observations and findings and that both the public and this Board will benefit from these recommendations.

With regard to specific recommendations, please be advised as follows:

We heartily endorse the recommendation that the General Assembly should consider amending S.C. Code Section 40-21-40 so as to provide for a second land surveyor member of the Board as well as a public member. As you are aware, we have supported and encouraged the passage of specific legislation by the General Assembly to add one additional land surveyor member; however, the General Assembly recently adjourned without acting on a bill which would have accomplished this objective. As you noted in your report, we have gone on record as favoring a public member on this Board and we will continue to support this measure as well. We would suggest that a lay member who is a knowledgeable consumer of engineering and surveying services would be a particularly valuable addition.

We have partially compiled a policies and procedures manual, which we immediately intend to expand to include any and all unwritten policies or procedures so as to implement this recommendation.

APPENDIX 5 (CONTINUED)

Mr. George L. Schroeder

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July 13, 1982

The members of this Board pose no objection to the recommendation that the General Assembly should delete the portion of S.C. Code Section 40-21-410 which exempts public service companies and utilities from the registration requirements for engineering practice by their employees, and we stand ready to accomplish the registration of qualified employees of these entities once the statute is amended so as to provide for such registration and licensure.

This Board will fully consider your recommendation that the number of years of experience required for exemption from a written examination requirement for engineering applicants seeking comity registration be reduced; however, we feel our present requirement is a reasonable one in order to protect the public. We shall eliminate the age requirement for this category of comity applicants.

We shall take steps to accomplish an amendment to Code of Regulations Section 49-9, Paragraph 1, so as to shorten or eliminate the so-called "grace period" of one year which registrants have for license renewal, and we are in support of sanctions such as penalty fees for late renewals. In addition, we shall endeavor to develop a workable system whereby we can become more aware of the desires or intentions of registrants who do not desire to renew their registrations for one reason or another. Frequently foreign and domestic movements by many engineers, whom we cannot at times reach by mail, will, of course, continue to be a problem in spite of our best efforts.

We endorse a change in S.C. Code Section 40-21-220 dealing with "good character and reputation" of applicants so as to define what is meant by good character and reputation. We feel that this provision can be useful in protecting the public from unscrupulous persons, if properly defined.

The procedures for administering oral examinations will be studied in an effort to make them as uniform as possible. We do feel that the oral examination serves a very useful purpose and that it is in the interest of the public welfare and safety to retain the oral examination option in dealing with various situations encountered in the application process.

Written policies and procedures for selection of a committee for development and grading of the local examination for land surveyors will be developed.

The Board will take the necessary steps to amend Code of Regulations Section 49-8, Paragraph 2, so as to define the use of the 70% passing grade as being based on an "equated" or "scaled" grading system.

Mr. George L. Schroeder  
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July 13, 1982

We shall also encourage and support enactment of Legislation to amend S.C. Code Section 40-21-340 to allow the Board to levy fines on registrants found to be in violation of the provisions of this section, which includes violations of the Rules of Professional Conduct. This is an excellent recommendation and when implemented, will provide a fair and reasonable intermediate disciplinary sanction more serious than a reprimand and short of license revocation or suspension, which are the only current sanctions provided by this section of the statutes.

We, again, would like to express our appreciation for your efficient appraisal of our operations and to assure you that constructive suggestions such as you provided are at all times welcomed.

Most sincerely yours,

*B.L. Baker*

B. L. Baker  
Secretary

BLB:mhb

CC: Board Members  
Agency Director

# State of South Carolina

OFFICE OF

## BOARD OF CERTIFICATION OF ENVIRONMENTAL SYSTEMS OPERATORS



PHONE 758-5434

June 30, 1982

202 J. MARION SIMS BUILDING  
2600 BULL STREET  
COLUMBIA, S.C. 29201

### Comments on Legislative Audit Council Review

The Board had three members and its Director review the preliminary report of the Legislative Audit Council. The review indicated that the Council has done a complete and thorough review of the responsibilities and activities of the Board.

Prior to this audit the Board was in the process of developing new examinations and has developed and is now using new examinations for both C and D water and wastewater applicants. New examinations for A and B water and wastewater applicants will soon be in use. Utilizing a new micro-computer, examinations at all levels will be developed by randomly selecting questions which have been approved previously by the Board's Examination Development Committee.

With regard to a register the Board does maintain and number files on all active and inactive certified operators. The printing of a listing of all certified operators was stopped in February of 1981 due to budget limitations. Within the next year all records will be computerized and listings will be available.

Concerning Board membership, the Board feels that professional representation must be maintained but does not object to the concept of public representation.

It should be noted that revenues generated by the Board exceed the expenses of the Board's operation even though the operational budget has been quite limited and in many areas, inadequate.

The Board wishes to express its gratitude to the staff of the Legislative Audit Council for the professional manner in which the audit was conducted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "William R. Moore".  
William R. Moore  
Director

WRM:smm